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E.O. 12958: DECL: CESSATION OF ALL EXPORT CONTROLS TO CHINA  
TAGS: BEXP CH ETRD ETTC PREL  
SUBJECT: ASSISTANT SECRETARY OF COMMERCE MATTHEW BORMAN  
MEETS WITH MINISTRY OF COMMERCE DIRECTOR-GENERAL WANG  
QINHUA TO DISCUSS IMPLEMENTATION OF NEW VALIDATED END-USER  
(VEU) PROGRAM

REF: A) BEIJING 247 (01/24/08) B) BEIJING 4701  
(07/17/07) C) BEIJING 4342 (06/28/07) D)  
BEIJING 4215 (06/22/07)

Classified By: Jeannette L. Chu, Export Control Officer for reasons 1.4  
b/h

¶1. (SBU) SUMMARY: On December 10, 2007, Department of Commerce Acting Assistant Secretary for Export Administration Matthew Borman and Embassy Export Control Officer (ECO) met with Director-General (DG) WANG Qinghua, Department of Mechanic, Electronic and High Technology Industries, Ministry of Commerce (MOFCOM) to discuss possible mechanisms for conducting site visits to companies in China who have applied for or already received Validated End-User (VEU) status. The VEU program affords pre-cleared end-users the ability to import U.S. controlled items without having to obtain individually validated licenses. The A/S and ECO met with DG Wang on the margins of a meeting between Department of Commerce Under Secretary for Industry and Security Mario Mancuso and Vice Minister (VM) of Commerce Wei Jianguo to discuss a range of issues relating to export controls and civilian high technology and strategic trade (see REFTEL A). USG officials outlined how VEU site visits would differ substantially from end-use visits related to licensed transactions. DG Wang remained firm in her belief that the Exchange of Letters on End-Use Visit Understanding (EUVU), which was signed in 2004, is the only mechanism under which USG officials can conduct site visits to companies in China. Both sides agreed to continue exploring ways of resolving these differences so that Chinese companies could benefit from the VEU program. END SUMMARY.

¶2. (C) A/S Borman expressed appreciation for DG Wang's leadership and effectiveness in implementing the 2004 EUVU, noting that more than 100 end-use visits conducted since then have resulted in favourable licensing determinations. The Validated End-User program or &VEU8 builds on this success, he noted, but remains structurally different because no licenses are required for commodities destined to VEU-approved companies. Thus, the EUVU does not immediately lend itself to VEU site visits; for example, Pre-License Check and Post-Shipment Verification end-use visits are triggered by a license application. By contrast, the first group of VEU companies did not require a site visit prior to attaining VEU status but may require a site visit in the future to verify that the commodities received without

license are being used appropriately. New companies applying for VEU status may also require a site visit prior to attaining VEU status. A/S Borman pointed out that the EUVU requires each licensed transaction to have a End-User/End-Use Statement issued by MOFCOM, however, VEU transactions would not have such documentation. There are two approaches, he concluded, to execute another Exchange of Letters similar to the EUVU but with an attachment specifically addressing VEU site visits, or to attach an Addendum to the existing EUVU describing how VEU site visits would be conducted.

¶13. (C) DG Wang noted that the EUVU took a long time and a lot of effort to reach agreement, and stressed that to this day the United States is the only country permitted by China to conduct end-use visits in China. She suggested that if a company is interested in attaining VEU status then that company could request that a Pre-License Check be conducted. There is no need for a new Exchange of Letters, Wang declared. DG Wang also stated that Chinese companies must follow Chinese law. Therefore, she reasoned, the only legitimate, reason for a visit to be conducted would be an end-use check under the current EUVU mechanism. DG Wang asked whether BIS would conduct VEU site visits to verify the legitimacy of items exported under this program or to check the legitimacy of the Chinese company.

¶14. (C) A/S Borman replied that for the five companies that have already obtained VEU status, site visits would only be necessary to verify the receipt and use of items shipped under VEU. He noted that shipments made to these companies under the VEU program would not have MOFCOM's End-User/End-Use Statement as VEU lifts the requirement for individual export licenses. Additionally, the EUVU requires the U.S. to submit requests to conduct Post-Shipment Verification (PSV) end-use checks within six months of

shipment. VEU has no time limit, Borman clarified, and therefore requests to visit VEU companies could not be bound by the same restriction.

¶15. (C) DG Wang then suggested that companies take greater advantage of the Special Comprehensive License (SCL), program, and urged the U.S. to increase the value of commodities that could be shipped under SCL. (NOTE: SCL's license multiple shipments of certain controlled items from a specific exporter to a specific end-user for up to two years. There is no dollar limit placed on the value of items that can be shipped under an SCL. END NOTE) A/S Borman clarified that the SCL is approved to each exporter individually while any exporter can ship to a VEU-approved company without first obtaining an individual export license. Borman urged, Let the market decide whether an individual validated license, SCL or VEU is the most appropriate vehicle for each transaction.,

¶16. (C) A/S Borman advised the Director-General that the several other companies are nearing completion of the VEU application process with approval expected imminently. This next group of VEU companies will increase the positive impact of VEU to more than 50% of the value of U.S. export licenses to China. DG Wang exhorted A/S Borman not to publish a second list of VEU-approved companies without first obtaining MOFCOM's approval. To do otherwise would negatively affect bilateral cooperation, she warned.

¶17. (C) Returning to the existing EUVU, DG Wang declared that there is no need for a new set of on-site review procedures for VEU companies because all companies are by definition end-users and thus covered by the EUVU -- VEU is a subcategory of end-users., Further, the stated purpose of VEU is to facilitate trade, therefore ascension to VEU should be simpler. I do not want the U.S. to claim that VEU facilitates trade but in fact have VEU become more difficult and burdensome,, said the DG, and insisted that agreement on this is essential to moving forward.

¶8. (C) A/S Borman assured DG Wang that the intent and reality of VEU is facilitating the legitimate export of controlled items for civilian purposes and pressed DG Wang for a commitment to work towards agreement on site visit procedures. The meeting concluded with both sides agreeing to continue discussions on practical steps to move forward with implementing the VEU program.

¶9. () COMMENT: Director-General Wang appeared unable or unwilling to grasp the most fundamental differences between on-site reviews for VEU purposes and end-use visits that relate to individual U.S. export licenses. Wang's overall lack of understanding of the VEU program is a roadblock to resolving implementation concerns. This is particularly disappointing in view of the numerous efforts made by USG officials to engage constructively with the Director-General on this issue. END COMMENT

¶10. (C) Ministry of Commerce meeting participants included:

¶11. Wang Qinhuai, Director General of the Department of Electronic, Technology and Mechanical Industry  
¶12. Zhou Ruojun, Deputy Director General of the Department of Electronic, Technology and Mechanical Industry  
¶13. Jin Xu, Deputy Director General of the Department of North American and Oceanic Affairs  
¶14. Jiang Qianliang, Office Director of the Department of Electronic, Technology and Mechanical Industry  
¶15. Jiang Feng, Staff of Department of Electronic, Technology and Mechanical Industry  
¶16. Interpreter

¶11. (U) A/S Borman has cleared this cable.  
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